

BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

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IN THE MATTER FILED BY THE	:	
DIVISION OF OIL, GAS AND MINING	:	NOTICE OF AGENCY ACTION
REQUIRING IMMEDIATE CESSATION	:	DIVISION ORDER
OF MINING, INTERIM SURETY, AND	:	FILE NO. S/019/035
SUBMISSION OF NOTICE OF INTENTION	:	
TO COMMENCE LARGE MINING	:	
OPERATIONS BY ABSOLUTE MINING	:	
AND MINERALS, LLC ,(AMMI),	:	
DALE G. SNYDER, OPERATOR,	:	
DOLORES RIVER PLACER OPERATIONS,	:	
GRAND COUNTY, UTAH	:	

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The Division of Oil, Gas and Mining, "Division," hereby directs the operator of the Dolores River Placer Operations to immediately cease all operations, post an interim reclamation surety and submit a Large Mining Notice of Intention. The site is located in Grand County, and surface disturbances occur in Section 11, Township 23 South, Range 24 East. The operator of record is AMMI. The company representative is Dale G. Snyder of Lehi, Utah.

The Division finds that the Dolores River Placer Operation, file S/019/035, is in non-compliance with sections of the Utah Mined Land Reclamation Act, 40-8-1 et seq (Act) and the Minerals Reclamation Program Rules (Rules), sections R647-1 through R647-5. This operation is permitted with the Bureau of Land Management (BLM) as a Plan Of Operations under file UTU-72488. A \$8,200 reclamation bond has been filed with the BLM for 4.1 acres of disturbance.

AMMI has not complied with the two mitigation requirements described in the Division's August 9, 1999, Notice of Non-Compliance, or provided adequate justification for not performing the mitigation. This document will formally advise you that AMMI's failure to adequately respond to the Notice of Non-Compliance has resulted in issuance of this Notice of Agency Action and Division Order.

Division Order

1. AMMI must submit an acceptable *interim* reclamation surety to the Division. We have calculated an interim bond estimate in the amount of \$15,375. This interim surety amount is based on applying an average reclamation cost of \$2,500 per acre to the estimated 6.15 acres of disturbance at the Dolores River Placer Operation site. Acknowledging and subtracting the \$8,200 reclamation surety presently held by the BLM, leaves a surety balance of \$7,175. This \$7,175 *interim* surety must be filed with our office within **20-days** of your receipt of this Notice. This surety amount may eventually be increased or decreased to reflect third party costs for reclamation of the

mine site as described in an approved Large Mining Operation Notice of Intention (LMO-NOI).

2. AMMI must submit a completed LMO-NOI application to the Division within 45 days of receipt of this Notice.
3. AMMI must cease all mining activities at the site until the interim reclamation surety has been formally accepted by the Division. Formal acceptance of the interim surety will allow mining activity within the current disturbed area footprint to continue until a LMO-NOI has been formally approved by the Division. Any continued mining activities are also subject to approval from the BLM and other applicable state and federal regulatory agencies.

Chronology of Recent Permitting Events

On April 30, 1999, Division and BLM staff performed an inspection of this operation. A global positioning system (GPS) was used to measure the current amount of site disturbance. The GPS measurements gave an estimated surface disturbance of 6.15 acres. This figure is considered to be a conservative estimate of the actual surface disturbance, since isolated islands of disturbance were not included in this measurement.

On June 21, 1999 the Division sent a certified letter to AMMI identifying the unpermitted expansion beyond five acres and describing the mitigation measures needed to remedy the situation. The letter required action within 30-days of receipt. The postal receipt identified this letter as being received on June 28, 1999. Forty-one days elapsed without any response from AMMI. On August 8, 1999, the Division sent a certified letter to AMMI issuing a Notice of Non-Compliance. The Notice of Non-Compliance required action within 15 days of receipt. The postal receipt identified this Notice of Non-Compliance as being received on August 9, 1999.

On August 16, 1999, the Division received a one page response letter from AMMI. The letter was identified as being a response to the Division's certified letters of June 21 and August 9, 1999. The letter offers the explanation that any work outside of a five acre area near the steel building has been performed to comply with BLM and Division reclamation requirements. The letter states these other disturbances should not be included as part of the mining operation.

While on the site on April 30, 1999, Division staff noted that mining equipment had been set up to process materials from the hill top area AMMI has described as being disturbed for reclamation only. During a phone conversation on August 11, 1999, Mr. Snyder acknowledged that materials from the hill had been run through the processing equipment while they were doing their reclamation work a year or so ago.

Finding of Non-Compliance

1. The AMMI Dolores River Placer Operation has exceeded the five acre disturbance threshold for small mine operations without proper permitting as a large mine operation as required by section 40-8-13 of the Act and section R647-3-113 of the Minerals Rules.

2. As a large mine operation AMMI has not posted a form and amount of reclamation surety acceptable to the Division as required by section 40-8-14 of the Act and section R647-4-113 of the Minerals Rules.
3. AMMI has not performed the mitigation as described in the Division Notice of Noncompliance letter dated August 9, 1999. AMMI has not requested an extension in the time frames for performance of mitigation. AMMI has not provided adequate justification for not performing the mitigation. These actions may be considered evasion of the Act and Minerals Rules in a willful and knowing manner, thereby subject to section 40-8-9 of the Act.

Applicable Minerals Rules in Violation:

R647-3-113. Mine Enlargement: *Before enlarging a small mining operation beyond five (5) acres of surface disturbance, the operator must file a Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) and receive Division approval.*

R647-4-101. Filing Requirements and Review Procedures: *A Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) or a letter containing all the required information must be approved by the Division before mining operations begin.*

R647-4-113. Surety: *After receiving notification that the Notice of Intention has been approved, but prior to commencement of operations, the operator shall provide the reclamation surety to the Division.*

Location of Non-compliance

The Dolores River Placer Operation is located in the northeast quarter of the northwest quarter of Section 11, Township 23 South, Range 24 East, SLBM, Grand County, Utah.

Right to Appeal

AMMI has the right to appeal the Division's decision on this matter by requesting an *informal* administrative hearing before the Division Director. A *written* appeal to this decision must be filed with this office within 10 days of your receipt of this certified letter. If no hearing is requested, then the Division's decision will become final.

Instructions for Filing an Appeal of the Division Decision

The written appeal must state: 1) your intent to appeal; 2) the specific violations you wish to appeal. This written appeal must be filed with this office within 10 days of your receipt of this certified letter. An Informal Hearing is conducted under the provisions of the Rules and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

Informal Hearing Conducted before Division Director

R647-5-104(2.11.5) - The adjudicative proceeding will be conducted informally according to the provisions of these Rules and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

Legal Authority and Jurisdiction

R647-5-104(2.11.117) - Pursuant to section 40-8-5, Utah Code Annotated (1953, as amended), and Minerals Rules, sections R647-3-113, R647-4-101, and R647-4-113.

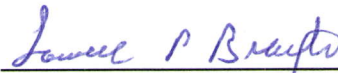
Purpose of Adjudicative Proceeding

R647-5-104(2.11.119) - The purpose of the adjudicative proceeding (if requested by the operator) will be to provide the operator an opportunity to contest the Division Order.

Consequences of Continued Non-Compliance

1. AMMI's failure to comply with these requirements within the time frames specified in this Notice will result in issuance of a Notice of Agency Action requiring an appearance at a formal hearing before the Board of Oil, Gas and Mining. After Notice and Hearing, the Board will issue an abatement or compliance order which may require: suspension or termination of all mining operations, immediate reclamation of all mining-related disturbances, and/or other lawful requirements as authorized under the Act.
2. The Board may choose to bring suit against AMMI in a local court seeking restraining orders, injunctions, and /or the judicial assessment of appropriate civil penalties, not to exceed \$10,000 per day for each willful and knowing violation of the Act.

Dated this 6 day of October, 1999.

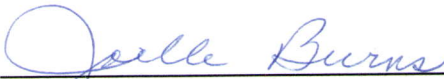


Lowell P. Braxton, Director
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing Notice of Agency Action, Division Order, for AMMI, Dolores River Placer Operation, S/019/035, to be mailed by first class mail, postage prepaid, the 6th day of October 1999 to:

1. CERTIFIED MAIL - P 074 976 766
Mr. Dale G. Snyder
Absolute Mining and Minerals, LLC
145 South 1350 East
Lehi, Utah 84043
2. Mr. Bill Stringer
Assistant Field Manager
Moab BLM Field Office
82 East Dogwood, Suite M
Moab, Utah 84532
3. Tom Mitchell
Assistant Attorney General
160 East 300 South - 5th Floor
P.O. Box 140857
Salt Lake City, Utah 84114-0857



Joelle Burns
Minerals Engineering Technician